

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION

3           TRACI M. CASEY                               ) DOCKET NO.  
              -vs-                                        ) 03-0557  
4           ILLINOIS-AMERICAN WATER COMPANY        )  
  )  
5           Complaint as to service and                )  
              billing in Alton, Illinois.             )

6    Springfield, Illinois  
7    January 6, 2004

8                   Met, pursuant to notice, at 10:00 A.M.

9           BEFORE:

10                   MR. JOHN ALBERS, Administrative Law Judge

11           APPEARANCES:

12  
13                   MS. TRACI M. CASEY  
                      P.O. Box 4183  
14                   Belleville, California 90707

15                               (Appearing pro se via teleconference)

16  
17                   MS. MARY SULLIVAN  
                      Attorney at Law  
18                   300 North Water Works Drive  
                      Belleville, Illinois 62223

19                               (Appearing on behalf of Illinois-American  
20                               Water Company via teleconference)

21           SULLIVAN REPORTING COMPANY, by

22           Carla Boehl, Reporter, CSR License #084-002710

## I N D E X

WITNESSES

DIRECT CROSS REDIRECT RECROSS

(None)

EXHIBITS

MARKED

ADMITTED

(None)

## 1 PROCEEDINGS

2 JUDGE ALBERS: By the authority vested in me by  
3 the Illinois Commerce Commission I now call Docket  
4 Number 03-0557. This docket concerns a complaint  
5 initiated by Traci M. Casey against  
6 Illinois-American Water Company concerning  
7 Ms. Casey's account in Alton, Illinois.

8 May I have the appearances for the record,  
9 please. Ms. Casey, would you please state your  
10 name, address and phone number, please.

11 MS. CASEY: Traci M. Casey, address P.O. Box  
12 4183, Belleville, California, 90707, also 113 East  
13 Elm street, Alton, Illinois, phone number (626)  
14 939-4555.

15 MS. SULLIVAN: On behalf of Illinois-American  
16 Water Company, Mary Sullivan. My address is 300  
17 North Water Works Drive, Belleville, Illinois  
18 62223-6789. My telephone number is (618) 239-2130.  
19 My e-mail address is mgsulliv@illinoisamerican, that  
20 is one word spelled out, .com.

21 JUDGE ALBERS: Thank you. Let the record  
22 reflect that there are no others wishing to enter an

1 appearance.

2 Are there any preliminary matters this  
3 morning? Ms. Casey, I believe you indicated off the  
4 record that you had a motion that you would like to  
5 make orally today.

6 MS. CASEY: Uh-huh. The motion is a motion for  
7 default and enter of final judgment by default.

8 JUDGE ALBERS: Okay. Would you like to state  
9 the reasons you believe that is appropriate and why  
10 you should prevail on that motion?

11 MS. CASEY: Yes. The rationale to why I should  
12 prevail on that motion is there was to be, unknown  
13 to me and I am fair surprised, there was a 21-day  
14 time limit in the state of Illinois to answer to a  
15 complaint. I diligently filed my complaint as to  
16 the guidelines of the Commission that was outlined  
17 to me when it was known to me and had no knowledge  
18 and was not given anything by the water company or  
19 by the Commission stating that I had to be responded  
20 to within a 21-day time period. I later learned  
21 this in an ex parte communications with Your Honor,  
22 that there was a 21-day time limit.

1           I had been in several conversations and led  
2       to believe, misled to believe, that there was some  
3       type of settlement and there were with me and the  
4       water company was several communications, phone  
5       conversations, prior to having a hearing with Your  
6       Honor. I then voiced my opinion to Your Honor once  
7       I was notified who would be handling this and was  
8       under the assumption that we would settle this prior  
9       to any type of answer.

10           Unbeknownst to me the water company never  
11       had an offer on the table. That was misleading on  
12       their behalf to have those conversations with me,  
13       and they did not in any way take the law in Illinois  
14       seriously. That's where they practice. That's  
15       where they preside and that's where they would know  
16       exactly what the time frame that they had.

17           So they used -- they actually did not  
18       respond to me, making me feel that there was a  
19       settlement in the mix and I confided this with Your  
20       Honor and assumed that this was what was going on.  
21       And they only answered when ordered to answer by  
22       Your Honor, not taking the laws of the Illinois

1 Commerce Commission or the laws of Illinois  
2 seriously where they practice and preside.

3 JUDGE ALBERS: Does that finish your statement?

4 MS. CASEY: Yes.

5 JUDGE ALBERS: Before I hear from Ms. Sullivan,  
6 I am concerned by a couple of the comments that you  
7 made. You referred to several communications you  
8 had with me regarding substantive matters in this  
9 proceeding.

10 MS. CASEY: No, I said I referred to a  
11 communication that I had with you and I just asked  
12 what was the filing date. I am totally lame as to  
13 what Illinois' law is. So just at a conversation I  
14 asked because I was concerned. I didn't know -- I  
15 don't know anything about Illinois' law. There is a  
16 total difference between Illinois and California.

17 JUDGE ALBERS: Well, you were referring to when  
18 I simply directed you to Code Part 200?

19 MS. CASEY: Right, you just said that, oh,  
20 yeah, you have typically 21 days to answer. That's  
21 what you -- you made that comment to me. I am like,  
22 well, I don't understand why they asked me to have

1 almost 60 days to answer basically until you ordered  
2 it. I didn't understand.

3 And that's not -- this is not a typical  
4 situation. I know that the water company has stated  
5 throughout several times that they didn't understand  
6 exactly what was going on. They did not understand  
7 what I meant by my complaint. But if you take -- if  
8 anyone wants to take a look, Your Honor or anyone  
9 else, at the answer to the complaint, they had  
10 knowledge that it was a complaint in the mix before  
11 it was formally filed because I was dealing with the  
12 Commerce Commission informally prior to filing a  
13 formal complaint.

14 JUDGE ALBERS: Okay. But aside from my  
15 suggestion you look at Code Part 200 to discern the  
16 Commission's rules on this, are you saying there are  
17 other instances in which I discussed the subject  
18 matter of this case with you?

19 MS. CASEY: No, just that.

20 JUDGE ALBERS: Okay. I just wanted the record  
21 to be clear on that. Thank you.

22 Ms. Sullivan, would you like to respond to

1           that?

2           MS. SULLIVAN: Yes. We have briefly filed a  
3           response to, like I say, the motion that had been  
4           entered before, but the bottom line is in Illinois  
5           cases should be heard on the merits, not on, you  
6           know, motions for default.

7           Further, we weren't in default. We filed  
8           our entry of appearance within 21 days upon receipt  
9           of the complaint. Thereafter, we did file our  
10          answer within the time frame ordered by the ALJ in  
11          this matter. We are in compliance with Part 200 of  
12          the Illinois Commerce Commission's rules and  
13          regulations.

14          JUDGE ALBERS: Okay. And as the complainant in  
15          this case you can reply to that if you think there  
16          is anything additional you would like to say in  
17          light of what she just stated.

18          MS. CASEY: Okay. As I stated earlier, they  
19          only ordered -- they filed after ordered. But they  
20          had been in communications with me prior to the  
21          filing, knowing where my position was on what had  
22          taken place, what had been -- what rules and

1 regulations as far as a consumer of Illinois that  
2 the water company violated.

3 They used the term "protect" and also  
4 "secure" throughout their whole answer to the  
5 complaint. And I am trying to figure out who were  
6 they protecting other than themselves. You couldn't  
7 get the security thing from me because I couldn't go  
8 home. So you left it securing that you were going  
9 to get my \$800, not securing my property.

10 JUDGE ALBERS: Okay. I think we are getting  
11 beyond the merits of the motion you just made. In  
12 light of what I have just heard and in light of what  
13 Code Part 200.180 states regarding answers, and I  
14 will read the first sentence of that for the record,  
15 "Whenever the Hearing Examiner issues a ruling that  
16 a complaint provides a clear statement on the  
17 subject matter, scope of complaint and basis  
18 thereof, answers to formal complaints shall be filed  
19 with the Commission within 21 days after the date on  
20 which the Commission serves notice of the Hearing  
21 Examiner's ruling upon the respondent unless  
22 otherwise ordered," I believe that's the statement

1       that Ms. Casey is referring to and again that's at  
2       200.180(a).

3               In light of that and in light of the fact  
4       that I have not issued any ruling indicating that  
5       the complaint provided a clear statement on subject  
6       matter, scope and the basis, the motion for a  
7       default judgment is denied. The respondent answered  
8       within the time frame I set following our first  
9       hearing and has not violated the rules regarding  
10      200.180(a) in filing of answers.

11             Are there any other preliminary matters?

12             MS. CASEY: No.

13             JUDGE ALBERS: I think we also discussed off  
14      the record that there is some discovery that is  
15      still outstanding. It is my understanding that  
16      Illinois-American will resubmit its questions to  
17      Ms. Casey today via regular mail, and in order to  
18      expedite this I indicated that responses to those  
19      should be mailed no later than February 13.

20             Are there any questions or are there  
21      comments regarding discovery?

22             MS. CASEY: No.

1 MS. SULLIVAN: Not from the company.

2 MS. CASEY: I have a question, one question  
3 regarding discovery. I would like Your Honor to  
4 clarify for me on the record when you say that the  
5 complaint did not have -- it wasn't clear, you had  
6 no clarity as to --

7 JUDGE ALBERS: The rule indicates that when the  
8 Hearing Examiner issues a ruling indicating the  
9 complaint is clear, an answer is then due 21 days  
10 following the date that the Commission serves notice  
11 of that ruling.

12 MS. CASEY: Okay, so.

13 JUDGE ALBERS: No ruling was ever issued in  
14 this docket regarding the clarity of the complaint.  
15 Therefore, that 21-day clock did not begin.

16 MS. CASEY: So when it is filed, when it is  
17 accepted by the Clerk's office, then when you accept  
18 a complaint, the complaint can be either clear or  
19 not clear?

20 JUDGE ALBERS: Essentially, yes.

21 MS. CASEY: It can be accepted?

22 JUDGE ALBERS: Yes.

1           MS. CASEY: So then you became clear after our  
2 conversation and is that why they were given the  
3 extra time?

4           JUDGE ALBERS: If I recall correctly, our first  
5 status hearing we discussed whether or not  
6 Illinois-American believed they had sufficient  
7 information from the face of the complaint to file  
8 an answer. I myself, not knowing much about the  
9 facts of the case other than what you indicated in  
10 your complaint, didn't know if the company would  
11 have enough information at that point to be able to  
12 respond. And I believe the company indicated they  
13 had enough information; therefore, a deadline was  
14 set for them to file their answer.

15          MS. CASEY: Okay. So that's where I am  
16 confused because that's where I am telling you that  
17 the confusion is coming in. In California the  
18 complaint cannot be accepted unless the Clerk has  
19 some clarity. I am very confused that it can be  
20 accepted as an official complaint and then say we  
21 are not clear what's going on. So, therefore, that  
22 gives someone else, the defense, extra time or the

1 judge can order for them to answer after clarity but  
2 I didn't make any more statements to make it any  
3 clearer. I didn't file anything else so I don't  
4 understand where the unclarity came in at.

5 JUDGE ALBERS: Well, Ms. Casey, I can tell you  
6 that from looking at your complaint I will have  
7 questions regarding certain things you mention in  
8 your complaint. I am hoping that the testimony you  
9 submit will clarify those questions -- or strike  
10 that, will provide answers to those questions. If  
11 not, you can expect questions from me at the  
12 hearing.

13 With regard to what California requires, I  
14 have no knowledge of that. We are in Illinois. The  
15 rules provide that if the complaint is not clear, a  
16 company or a respondent, any respondent, is now  
17 required to respond to that within 21 days. If you  
18 are not satisfied with that answer, you are free to  
19 file a petition for interlocutory review with the  
20 full Commission.

21 MS. CASEY: Okay. Can you send me a copy of  
22 that? Because I am not satisfied, Your Honor.

1 JUDGE ALBERS: A copy of what?

2 MS. CASEY: A copy of the statement that you  
3 just made where I can file that. Because I am not  
4 satisfied with that answer because I didn't make any  
5 more statements to give them any additional time as  
6 far as clarity. I did not make any more statements.  
7 I cannot put anything else on the record for this to  
8 be unclear as to what my position was.

9 JUDGE ALBERS: I am not sure what you are  
10 asking for a copy of.

11 MS. CASEY: You just told me that if I am not  
12 satisfied, then I can file you just said a bunch of  
13 things that I didn't quite understand. And for the  
14 record, if it wouldn't be any inconvenient or if you  
15 could slow it down for me to take that down, if you  
16 are saying you don't understand what I mean by a  
17 copy, then I would like to take down what you just  
18 said and I will be filing that.

19 JUDGE ALBERS: I will put it this way. If a  
20 party is not satisfied with a ruling of an  
21 administrative law judge such as myself, they can  
22 ask the Commission to consider that same question

1       and that's called a Petition for Interlocutory  
2       Review. And I am looking for the exact code part  
3       right now so I can give you that code section. If  
4       you find code Part 200?

5               MS. CASEY: Uh-huh.

6               JUDGE ALBERS: 200.5230, if you look at that,  
7       it will tell you how to submit that Petition for  
8       Interlocutory Review.

9               Okay. Can we go forward with the  
10      scheduling now?

11              MS. CASEY: Sure.

12              JUDGE ALBERS: Okay. You have no other  
13      questions regarding the ruling or you don't have any  
14      other preliminary matters to raise, either one?

15              MS. CASEY: No.

16              JUDGE ALBERS: Ms. Sullivan, do you have any  
17      preliminary matters?

18              MS. SULLIVAN: No, sir.

19              JUDGE ALBERS: Okay. Prior to going on the  
20      record we discussed the following dates for the  
21      complainant's and respondent's testimony in this  
22      matter.

1                   The complainant's direct testimony will be  
2                   mailed on or before February 6.

3                   Illinois-American's testimony would be  
4                   mailed on or before March 3.

5                   The complainant's rebuttal testimony will  
6                   be mailed on or before March 26.

7                   And an evidentiary hearing will be held on  
8                   April 27 at 10:00 a.m.

9                   And does anyone have any questions or  
10                  thoughts about those dates?

11                  MS. CASEY:   No.

12                  MS. SULLIVAN:  No.

13                  JUDGE ALBERS:  I can advise both parties to  
14                  provide a clear statement in their testimony of what  
15                  they believe to be the relevant facts, exactly what  
16                  relief or what outcome they believe should result in  
17                  this matter and keep in mind the Commission's legal  
18                  authority to order that outcome.

19                  Does anyone have any questions or concerns  
20                  for today?

21                  MS. CASEY:   No.

22                  MS. SULLIVAN:  No, sir.

1           JUDGE ALBERS:   Okay.   I don't believe I have  
2           anything else.   If there is nothing further, we will  
3           continue this to April 27 at 10:00 a.m.

4                       (Whereupon the hearing  
5                       in this matter was  
6                       continued until April  
7                       27, 2004, at 10:00 a.m.  
8                       in Springfield,  
9                       Illinois.)

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